

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES D. BRYANT,

Plaintiff,

v.

SHARI'S MANAGEMENT CORPORATION  
d/b/a SHARI'S RESTAURANTS; DOES 1-  
10; and CORPORATIONS A-Z,

Defendants.

Civil No. CV6-1799 RSM

ANSWER TO COMPLAINT FOR  
DAMAGES AND AFFIRMATIVE  
DEFENSES

COMES NOW defendant, Shari's Management Corporation d/b/a Shari's  
Restaurants ("Shari's" or "defendant"), and in answer to plaintiff's complaint states as follows:

**ANSWER**

1.

Answering paragraph 1 of plaintiff's complaint, defendant admits that plaintiff  
purports to assert claims under the listed statutes. To the extent that there are any factual  
allegations contained therein, defendant denies same.

2.

Answering paragraph 2, defendant denies it is liable to plaintiff for any damages.

1 3.

2 Answering paragraph 3, defendant admits that plaintiff was an employee of  
3 defendant, and on information and belief, defendant admits that plaintiff is a resident of  
4 Snohomish County. Except as specifically admitted herein, defendant lacks sufficient  
5 knowledge to form a belief as to the truth of the matters asserted, and therefore denies same.

6 4.

7 Answering paragraph 4, defendant admits same.

8 5.

9 Answering paragraph 5, defendant lacks sufficient knowledge to form a belief as  
10 to the truth of the matters asserted, and therefore denies same.

11 6.

12 Answering paragraph 6, defendant lacks sufficient knowledge to form a belief as  
13 to the truth of the matters asserted, and therefore denies same.

14 7.

15 Answering paragraph 7, defendant admits that this court has jurisdiction over the  
16 claims asserted as they involve a federal question. To the extent that factual allegations are  
17 asserted therein, defendant denies same.

18 8.

19 Answering paragraph 8, defendant admits that venue is proper in this court, but  
20 denies that any of the “complained of acts” occurred.

21 9.

22 Answering paragraph 9, defendant denies same.

23 10.

24 Answering paragraph 10, defendant admits same.

1 11.

2 Answering paragraph 11, defendant lacks sufficient knowledge to form a belief as  
3 to the truth of the allegations contained therein, and therefore denies same.

4 12.

5 Answering paragraph 12, defendant admits same.

6 13.

7 Answering paragraphs 13, 14, and 15, defendant denies same.

8 14.

9 Answering paragraph 16, defendant admits that it provided plaintiff with  
10 supervisor training in March 2004. Except as specifically admitted herein, defendant denies  
11 same.

12 15.

13 Answering paragraph 17, defendant denies same.

14 16.

15 Answering paragraph 18, defendant admits that in March 2005, plaintiff made  
16 allegations to co-workers about Mr. John Jenkins, Sr., that the co-workers reported those  
17 allegations to District Manager Martin Turner, that Mr. Turner investigated the allegations, and  
18 that defendant reported to plaintiff about the investigation in April 2005. Defendant also admits  
19 that beginning in May 2005, Mr. Jenkins, Sr., began a medical leave of absence, and defendant  
20 did not tell plaintiff that the leave was related to his complaint. Except as specifically admitted  
21 herein, defendant denies same.

22 17.

23 Answering paragraph 19, defendant admits that subsequent to Mr. Jenkins, Sr.,  
24 beginning his leave of absence, Mr. Jenkins, Jr., assumed temporary responsibility for the Mill  
25 Creek location, that to its knowledge, Mr. Jenkins, Jr., is the son of Mr. Jenkins, Sr., that plaintiff  
26 was appropriately disciplined for various infractions similarly to other employees, and that he

1 was terminated on or about July 9, 2005, for legitimate business reasons. Except as specifically  
2 admitted herein, defendant denies same.

3 18.

4 Answering paragraphs 20 and 21, defendant denies same.

5 19.

6 Answering paragraph 22, defendant herein incorporates and realleges  
7 paragraphs 1 – 18 above.

8 20.

9 Answering paragraphs 23 and 24, defendant denies same.

10 21.

11 Answering paragraph 25, defendant herein incorporates and realleges paragraphs  
12 1 – 20 above.

13 22.

14 Answering paragraphs 26 and 27, defendant denies same.

15 23.

16 Answering paragraph 28, defendant herein incorporates and realleges  
17 paragraphs 1 – 22 above.

18 24.

19 Answering paragraphs 29, 30, 31, and 32, defendant admits that John Jenkins, Sr.,  
20 went on a leave of absence; John Jenkins, Jr., was temporarily assigned manager duties for the  
21 Mill Creek location; and Mr. Jenkins, Jr., terminated plaintiff's employment for legitimate, non-  
22 discriminatory, and non-retaliatory reasons. Except as specifically admitted herein, defendant  
23 denies same.

24 25.

25 Answering paragraph 33, defendant herein incorporates and realleges paragraphs  
26 1 – 24 above.

1 26.

2 Answering paragraph 34, defendant denies same.

3 27.

4 Answering paragraph 35, defendant herein incorporates and realleges  
5 paragraphs 1 – 26 above.

6 28.

7 Answering paragraphs 36 and 37, defendant denies same.

8 29.

9 Answering plaintiff's request for judgment and relief and paragraphs A, B, C, and  
10 D therein, defendant denies plaintiff's right to any such judgment or relief.

11 30.

12 Except as specifically admitted herein, defendant denies the allegations contained  
13 in plaintiff's complaint.

14 **AFFIRMATIVE DEFENSES**

15 By way of further answer and or affirmative defenses, defendant states as follows:

16 31.

17 Plaintiff fails to state a claim upon which relief can be granted.

18 32.

19 Plaintiff has failed to mitigate his damages.

20 33.

21 Defendant is entitled to a set-off against damages, if any, of any amounts earned  
22 by plaintiff following his termination from employment with defendant.

23 34.

24 Defendant takes steps to prevent and correct harassment in the workplace.

1 35.

2 Plaintiff unreasonably failed to avoid harm.

3 36.

4 Defendant acted at all times in good faith.

5 37.

6 Defendant's actions were based on legitimate, non-discriminatory, and non-  
7 retaliatory reasons.

8 38.

9 Plaintiff has unclean hands.

10 39.

11 Defendant would not reinstate and/or would have terminated plaintiff's  
12 employment based on after-acquired evidence of misconduct by plaintiff.

13 40.

14 Plaintiff is contributorily negligent.

15 **REQUEST FOR RELIEF**

16  
17 WHEREFORE, having fully answered plaintiff's complaint, defendant requests  
18 the following relief:

- 19 1. Plaintiff's claims be dismissed with prejudice;  
20 2. Defendant be awarded its costs and attorney fees; and  
21 3. That the court award any other remedy it deems appropriate.

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23 / / / / /

24 / / / / /

25 / / / / /

26 / / / / /

1 DATED this 8th day of January, 2007.

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14 Shari's Management Corporation d/b/a

15 Shari's Restaurants

1 I hereby certify that on this 8<sup>th</sup> day of January, 2007, I electronically filed the  
2 ANSWER TO COMPLAINT FOR DAMAGES AND AFFIRMATIVE DEFENSES with the  
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to:

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5 Law Offices of Elena E. Tsiprin  
6 14670 NE 8th St Ste 210  
7 Bellevue, WA 98007-4127

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18 Attorneys for Defendant  
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23  
24  
25  
26 Certificate of Service